IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

Crl.MC.No. 807 of 2006()

ST.3523/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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PETITIONER: ACCUSED:

SANTHOSH PAUL, S/O. K.C. PAUL,
KIZHAKKUMBAGATH HOUSE, KARALAI AMSOM, NILAMBUR.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT AND STATE:

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1. C.K. ABDUL NASAR, S/O. ABDULLAKUTTY,
PLAZMA VILLA, POOKKOTTUMPADAM P.O.,
AMARAMBALAM AMSOM AND DESOM, NILAMBUR TALUK.

2. SHANAVAS P.,
ADVOCATE, S/O. PULATHCHEK, POOKOTTUMPADAM P.O.,
NILAMBUR.

3. STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, NILAMBUR POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
SRI.BABU S. NAIR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 14/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.807 OF 2006

Dated this the 14th day of December, 2006.

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. In the said case, he wants to take up a defence that the cheque was fraudulently made use of by the complainant. He had filed a complaint before the learned Magistrate, which was referred to the police. Investigation into that crime was pending as Crime No.654 of 2005. The petitioner in these circumstances came to Court with the prayer that the prosecution under Section 138 of the N.I Act may be quashed or in the alternative, the trial in that case may be stayed till investigation is completed by the police in Crime No.654 of 2005.

2. When this petition came up for hearing, the learned counsel for the respondent/complainant points out and it is not disputed that investigation in Crime No.654 of 2005 is now over. Final report has already been filed. Cognizance has been taken by the same court and the same is pending before the same court, ie. J.F.M.C, Nilambur as C.C.No.147 of 2006.

3. I find absolutely no justifiable reason to invoke the powers under Section 482 Cr.P.C to quash the prosecution under Section 138 of the N.I Act. The alternative prayer has now become infructuous as C.C.No.147 of 2006, has already been registered on the basis of the final report in Crime No.654 of 2005.

4. This Crl.M.C is, in these circumstances, dismissed.

R.BASANT
JUDGE

rtr/